IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FARAD CONTINUATION SHEET
CIVIL APPLICATION NO.2011 OF 2006
IN
FIRST APPEAL NO.1408 OF 2005

Malappa Shivana Havanale & Ors. ...Applicants
vs.
Rachotishwar Shivacharya Guru & Ors. ...Respondents

Mr.A.G.Joshi for the Applicants
Mr. N.R.Bubna for Respondent No.1.

CORAM: A.S.OKA, J.
DATED: JULY 25, 2006.

P.C.:

1. Heard Advocates for the parties. The learned Advocate for the Applicant states that he is pressing only the prayer clauses (b) and (c) which read as under :

"(b) That during pendency and final disposal of this First Appeal, the Opponents, their agents and servants be restrained by an interim order of injunction from making any sort of constructions in the Shree Siddheshwar Temple area;

(c) That during pendency and final disposal of this First Appeal, the Opponents, their agents and servant be restrained by an interim order of injunction from making any application for changes of entries in public records on the basis of impugned decree dated 30-6-2005 in Regular Civil Suit No.1 of 1995 passed by 2nd Additional District

Judge, Pandharpur, District Solapur."

2. By clause No.2 of the operative part of the impugned Judgment and Decree, the Defendant Nos.2 to 17 have been restrained from disturbing the possession of the Plaintiffs over the suit property and from obstructing the Plaintiff No.2 or any person on his behalf from performing religious functions in the temple bearing house no.32. While admitting the Appeal, this court has granted a limited interim relief of stay of clause No.3 of the operative part of the decree which directs imprisonment of the Defendant No.2. The operative part of the decree which is quoted above is not stayed and the stay is confined to clause No.3 of the operative part of the decree. Thus, the clause No.2 of the operative part of the decree is still operating. Therefore, no case is made out for grant of interim relief in terms of prayer clause (b).

3. So far as the prayer clause (c) is concerned, if any entries are made in the record on the basis of the impugned decree, it is obvious that the said entries will be subject to the final outcome of the First Appeal. No case is made out for grant of interim relief.

4. The oral prayer made for fixing early hearing of the Appeal is rejected.

5. Subject to what is stated above, Application is rejected.

Judge.